

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS, *et al.*

Plaintiffs,

v.

GREG ABBOTT, *et al.*,

Defendants.

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Case No. 3:21-cv-00259
[Lead Case]

ROY CHARLES BROOKS, *et al.*

Plaintiffs,

v.

GREG ABBOTT, *et al.*,

Defendants.

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Case No. 1:21-cv-00988
[Consolidated Case]

ADVISORY ADDRESSING EXHIBITS

Defendants write to advise the Court of two matters relating to exhibits.

First, in accordance with the Court's request, Defendants have transmitted paper copies of exhibits utilized during the January 25–29 preliminary-injunction hearing to the chambers of the Honorable Jerry Smith, and a thumb drive containing Defendants' exhibit to the chambers of the Honorable Jeff Brown. Defendants stand ready to provide additional exhibit copies upon further direction of the Court.

Second, Defendants were recently made aware of a potential ambiguity relating to Exhibit 4 to Defendants' Opposition to the Brooks Plaintiffs' Motion for Preliminary Injunction that addresses the creation of certain maps created by Todd Giberson, an employee of the Texas Attorney General Legal and Technical Support Division. *See* ECF 102-1. Defendants did not seek admission of that

exhibit at the preliminary-injunction hearing, and it was not admitted into evidence. Defendants are also not asking the Court to consider the exhibit or any new information. Out of an abundance of caution, however, they file this advisory to avoid any potential misunderstanding.

Paragraph 7 of Exhibit 4 in ECF 102-1 describes four demonstrative partisan-shading maps attached to the declaration as created “using data gathered from RedAppl.” As the Court is aware, RedAppl, the State of Texas’s Redistricting Application, is a software application designed and administered by the Texas Legislative Council (“TLC”). As a colloquial matter, Mr. Giberson described this TLC data as coming “from RedAppl” because RedAppl uses the same TLC data. As a technical matter, however, Mr. Giberson received the TLC data described in paragraph 7 directly from TLC rather than through RedAppl.

To the extent the Court seeks to download the TLC data, it can do so through the TLC’s “Capitol Data Portal,” which is located at <https://data.capitol.texas.gov/>. The underlying TLC data is the same regardless of how one accesses it.

Finally, the State Defendants attach an updated declaration of Mr. Giberson that more precisely describes how the data was obtained. It is attached as “Exhibit A” and a redline reflecting the changes to his prior declaration is attached as “Exhibit B.”¹

¹ The updated declaration contains two other minor clarifications. First, it adds “data analyst” to Mr. Gibberson’s job title because he was reclassified from “systems analyst” to “data analyst” in April of 2021. And second, it clarifies the origin of the Spanish-surname data available in RedAppl. Although the Census Bureau gathers the underlying data, TLC makes the determination of Spanish-surname status.

Date: February 4, 2022

Respectfully submitted.

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COUNSEL FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on February 4, 2022, and that all counsel of record were served by CM/ECF.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN